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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

April 12, 1995

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, D.C. 20554

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Re: Establishment of a Funding  
Mechanism for Interstate Operator  
Assistance for the Deaf, RM-8585

Dear Sir:

I am writing to respond to a claim raised by GTE for the first time in the reply comments on the above-captioned rulemaking petition filed by Southwestern Bell, which requests the Commission to implement a shared funding mechanism for operator services for the deaf ("OSD") along the same lines already prescribed for telecommunications relay services ("TRS"). AT&T showed in its comments that, unlike TRS, the Americans with Disabilities Act ("ADA") does not require common carriers to provide OSD. GTE's reply comments take issue with that showing.

No party to this proceeding -- and least of all AT&T, which has provided OSD since 1980 -- disputes the fact that this offering is a useful service to customers with hearing and speech disabilities. The only issue presented in this rulemaking is whether there is any need for the Commission to prescribe a shared funding mechanism for this service. The misconceptions stated in GTE's reply comments concerning the applicability of the ADA to OSD are not calculated to assist the Commission's determination of the cost recovery issue.

Specifically, GTE states (p. 3) that it "does not necessarily agree with AT&T's conclusion that OSD is not part of a carrier's obligation under the ADA." In support of its view, GTE cites Section 64.604(a)(3) of the Commission's rules, which requires TRS providers to

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be "capable of handling any type of call normally provided by common carriers." GTE also relies on Section 64.604(b)(3), which specifies that TRS users must have access to their chosen IXC and "all other operator services, to the same extent that such access is provided to voice users."

These arguments are misplaced. As a threshold matter, it is apparent on the face of Southwestern Bell's rulemaking petition that OSD is not already part of a carrier's ADA-mandated service obligation; otherwise, the request for rulemaking would have been superfluous. In fact, Southwestern Bell candidly acknowledges in its reply comments (p. 2) that OSD "is not required by Title IV of ADA."

GTE's reliance on the Commission's regulations as support for its claim that OSD may be mandated by ADA is also erroneous. Those rules do not purport to impose any obligations in addition to those in the statute.<sup>1</sup> Moreover, contrary to GTE's claim, the requirement of Section 64.604(a)(3) that TRS providers be capable of "handling any type of call" simply refers to forms of calling, such as calling card or collect calls, already offered by common carriers to their voice customers. It does not impose an independent obligation on carriers to offer an entirely new service, such as OSD, that is not "normally provided" by common carriers to telephone subscribers.<sup>2</sup>

GTE is equally wide of the mark in claiming that Section 64.604(b)(3) requires common carriers to provide OSD to their customers. That section expressly requires that carriers provide TRS customers access to

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<sup>1</sup> The Commission's rules define TRS, in language borrowed from the ADA, as services that provide the ability for an individual with a hearing or speech disability to communicate with a hearing individual; these include "two-way communication between an individual who uses a [TT] and an individual who does not use such a device." See Section 64.601(7). OSD, which is a TT-to-TT service providing alternate billing assistance for calls placed solely between TT users, does not satisfy this definition.

<sup>2</sup> OSD is not available from most IXCs; to date, only AT&T and MCI have offered that capability to their customers. Thus, even if Section 64.604(a)(3) were otherwise applicable here, as GTE claims, it would not mandate provision of OSD because that service is not "normally provided by common carriers."

operator services only "to the same extent that such access is provided to voice users" (emphasis supplied). OSD provides operator assistance, via TT, to a TT user to arrange alternate billing of calls to another TT user; by the very nature of that service, voice users do not make use of OSD. Hence, this provision of the Commission's rules offers no support for GTE's claim that provision of OSD is mandated by ADA.

Very truly yours,

*Glaine Hatcher /ha*

cc: All commenters